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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,130	10/16/2003	Sean Thomas Clark	9323M	7351

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,130

Applicant(s)

CLARK ET AL.

Examiner

Dmitry Suhol

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-5, 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Gibson et al '488. Gibson discloses an educational structure containing all of the elements of the claims including a structure divided into a first and second areas (figures 1-4, cab section 2 and toy chest area 9) as required by claim 1, a first three dimensional interactive aide (steering wheel 4) as required by claim 1, a second three dimensional interactive aide (toys and books as described in col. 4, lines 56-58) as required by claim 1. A first interactive aide located in the first area and a second interactive aide located in the second area, as required by claim 1, is described in col. 4, lines 29-31 and lines 56-58, respectively. With respect to the two different stages of development, as broadly required by claim 1, Gibson's interactive aides encompass such features since to turn the steering wheel a user would have to be developing his/her muscles and coordination (considered to be part of a second stage of

development), while to view the contents of a book the user would have to be developing his/her vision (considered to be part of first stage of development). A first and second educational aide providing information regarding a first aspect of child development and a second aspect of child development, respectively, where the first and second aspects are chosen from the group of physical development, motor skills, emotional development, sensory development and coordination, as required by claim 4, are described in col. 4, lines 29-31 and lines 56-58 where the steering wheel provides information regarding motor skills (i.e. when a child plays with the steering wheel it provides information of how developed the child's motor skills are), while the books provide information regarding sensory development (i.e. when a child plays with the books it provides information of the level of the child's visual senses). A structure being movable, as required by claim 5, is shown in figure 1, where it is considered that since the structure is not attached to the floor or ground in any manner it is movable. The structure comprising a trailer, as required by claim 8, is shown in figures 1-4. The structure being self contained, as required by claim 9, is shown in figures 1-4. The structure being divided into at least four areas, as required by claim 10, is shown in figure 1, where the first area is the cab (2), the second area is the toy chest (9), the third area is the rear section including the desk (12) and the fourth area is the writing teaching station (18).

Claim 12 is rejected under 35 U.S.C. 102(e) as being anticipated by Stamm '975. Stamm discloses a system and method facilitating early childhood brain development

which utilizes a number of educational aides (102) containing a number of activity items which relate to a specific stage of development (infant, baby, toddler, preschooler). Stamm further teaches that his educational aides are comprised of indicia which communicates the correspondence of the educational aides to the specific stage of development (figures 5-8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-7, 9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon '495. Yoon discloses an educational structure containing all of the elements of the claims including a structure divided into a first and second areas (figures 9 and 10, tent and pocket 13, where the first area is read onto the pocket formed by the back section 15 and the front section 17 and the second area is read onto the sub-pocket assembly 40) as required by claim 1, a first three dimensional interactive aide (learning board 11) as required by claim 1, a second three dimensional interactive aide (balls 44) as required by claim 1. A first interactive aide located in the first area and a second interactive aide located in the second area, as required by claim 1, is shown in figure 9. A first and second educational aide providing information regarding a first aspect of child development and a second aspect of child development, respectively, where the

first and second aspects are chosen from the group of physical development, motor skills, emotional development, sensory development and coordination, as required by claim 4, are described in col. 2, lines 52-60 and col. 4, lines 51-64 where the balls provide information regarding motor skills (i.e. when a child plays with the balls it provides information of how developed the child's motor skills are), while the indicia of the learning boards provide information regarding sensory development (i.e. when a child plays with the learning boards it provides information of the level of the child's visual senses). A structure being movable, as required by claim 5, is described in cols. 3-4, lines 62+ and lines 1-4, respectively. The structure capable of being placed in a portable configuration, as required by claim 6, is described in cols. 3-4, lines 62+ and lines 1-4, respectively. A structure being a tent, as required by claim 7, is shown in figure 1. The structure being self contained, as required by claim 9, is shown in figure 1. An educational apparatus comprising two or more three dimensional interactive educational aides, as required by claim 12, is shown in figure 9 as board 11 and balls 44. The three dimensional educational aides being related by common labeling, indicia or other insignia, as required by claim 12, is described in col. 2, lines 52-60.

With respect to the two different stages of development, as broadly required by claim 1, it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to have included educational aides directed to different stage of development of children since Yoon clearly teaches that the three-dimensional interactive aides of his invention can be customized to children of a variety of ages and variety of educational needs (col. 4, lines 20-26 and lines 60-64).

Claims 1, 4, 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stamm et al '975 in view of "Broadlands Community Forums", hereafter Broadlands. Stamm, as stated above, discloses interactive educational aides (102) directed to different stages of development (figure 4A-4B, infant, baby, toddler, preschooler) which when used by an adult user inherently provide a demonstration of an activity simulating the experience of a user child of the aide, as required by claim 1.

Stamm lacks the teaching of a structure divided into two or more areas (4 areas as required by claim 10) as required by claim 1. However Stamm clearly teaches that his system may be used in a daycare center (considered a self contained structure as required by claim 9) (paragraph 0018), while Broadlands provides a teaching that daycare centers often split their children into a number of rooms (specifically 4 rooms) according to age (top of page 4) and since Stamm clearly show a number of stages (figures 4A-4B) related to a child's age (infant, baby, toddler, preschooler), it would have been obvious to utilize the system of Stamm in the daycare rooms of Broadlands for the purpose of developing a child's brain.

Regarding the limitations of claim 4, Stamm teaches that his system is directed to various aspects encompassed by claim 4 in figures 4A and 4B.

Regarding claim 11, the babies prior to being able to crawl or walk are considered to be infants, babies who can crawl and walk for short distances are considered to be baby's, children who are able to walk and are learning to run are

considered to be toddlers, while children that are able to run and are able to at least partially dress themselves are considered to be preschoolers (see figure 4A-4B).

Response to Arguments

Applicant's arguments filed October 27th, 2005 have been fully considered but they are not persuasive. Applicants argue that the Gibson '488 does not anticipate applicants invention since the reference fails to teach all of the claimed limitations. As support for their arguments applicants contend that Gibson does not meet the limitation of "...when used by an adult user provides directly to said user a demonstration simulating the experience of a first child engaged in said event or activity, wherein said first child is in a first stage of development" as claimed in claim 1. In response the examiner points out that the structure of Gibson includes a variety of educational children's toys therein (see figure 1-2 and sections of the specification as outlined above) and since applicants do not limit the toys in any structural manner but rather in a functional way the toys of Gibson encompass all of the claimed limitations since the structure of Gibson is clearly capable of performing all of the claimed functions. In this case the toys of Gibson (steering wheel 4, toys and books as described in col. 4, lines 56-58) are clearly intended to be used as an activity item by a child, however if an adult were to use such items in the same manner as a child the adult would inherently receive a direct demonstration simulating the experience of a child engaged in such an activity. In other words, fore example, an adult turning a steering wheel (4) would inherently receive the same sensation through touch and mechanical response of the wheel as

would a child user. Therefore the examiner has ascribed the claim language the broadest reasonable meaning in the art, rather than dismissing limitations as stated by the applicants.

Regarding applicants contention that their specification clearly distinguishes their claimed aides from the aides of Gibson, the examiner once again reiterates his position that although the claims are read in light of the specification it is inappropriate to import limitations from the specification into the claims. The applicants have had ample opportunity to incorporate any structural limitations from their specification into the claims regarding their educational aides but have chosen not to do so and therefore the examiner WILL NOT import such structure into the claims either. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicants further argue that Stamm et al '975 fails to anticipate the limitation of that her 3-D interactive aides themselves are provided with common labeling, indicia or other insignia communicating their correspondence to a particular stage of child development as required by claim 12. In response the examiner points out that 3-D aides of Stamm (housing 102 and its internal components including a variety of toys and activity cards) explicitly shows that the housing (102) comprises activity cards (104) which clearly communicate to an adult user (teacher/guardian/parent etc.) a correspondence between the aid and a child's stage of development that the aid is intended for (figures 5-8, where the cards of figures 5-8 identify a stage, i.e. 0-6 months, 6-18 month and various activities and instructions regarding use and child development which corresponds to the particular stage).

Applicants further present the same argument for Yoon '495 as they did for Gibson '488, that is that Yoon does not meet the limitation of "...when used by an adult user provides directly to said user a demonstration simulating the experience of a first child engaged in said event or activity, wherein said first child is in a first stage of development" as claimed in claim 1. In response the examiner points out that the structure of Yoon includes a variety of educational children's toys therein (learning board 11 and balls 44) and since applicants do not limit the toys in any structural manner but rather in a functional way the toys of Yoon encompass all of the claimed limitations since the structure of Gibson is clearly capable of performing all of the claimed functions. In this case the toys of Yoon (learning board 11 and balls 44) are clearly intended to be used as an activity item by a child, however if an adult were to use such items in the same manner as a child the adult would inherently receive a direct demonstration simulating the experience of a child engaged in such an activity. In other words, for example, an adult rolling balls (44) would inherently receive the same sensation through touch and mechanical response of the balls as would a child user.

As in the case of Stamm, applicants again contend that the aides of Yoon do not carry the required indicia as claimed. In response the examiner point out that the aides of Yoon clearly carry indicia related/corresponding to child development and inherently various stages of child development.

Regarding applicants arguments with respect to the combination of over Stamm et al '975 and Broadlands, the examiner maintains his rejection and the validity of Broadlands as prior art including the respective posting dates and that Stamm does

disclose the required elements with respect to the educational aides, since as stated in Yoon and Gibson, for example an adult rolling balls would inherently receive the same sensation through touch and mechanical response of the balls as would a child user.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dmitry Suhol
Examiner
Art Unit 3725

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